

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY TABAREZ,

Plaintiff,

No. CIV S-04-0360 LKK EFB P

vs.

DIANA BUTLER, et al.,

Defendants.

ORDER AND
ORDER TO SHOW CAUSE

Plaintiff is a state prisoner proceeding with counsel in an action brought under 42 U.S.C. § 1983. By separate orders, this court directed the defendants to file pretrial statements and set this matter for pretrial conference on September 30, 2009. Dckt. Nos. 160, 161. For the reasons explained below, the pretrial conference is vacated.

This court previously issued findings and recommendations to deny in part and to grant in part the motions for summary judgment filed by Acuna, Baber, Butler, Lemon, Rendon and Rios. Dckt. No. 129. The district judge entered an order adopting in part and declining to adopt in part those findings and recommendations, and remanded the matter to this court for pretrial proceedings. Dckt. No. 133. Accordingly, by minute order the court set this matter for pretrial conference on September 30, 2009. Dckt. No. 160. By separate order, the court directed defendants to file their pretrial statements pursuant to Local Rule 16-281. *Id.* This rule requires

1 that pretrial statements be filed not less than 5 court days before the date of the pretrial
2 conference. Local Rule 16-281(a)(1).

3 None of the defendants has filed a pretrial statement. Accordingly, defendants are
4 ordered to show cause why sanctions should not be imposed for their failure to file pretrial
5 statements in apparent violation of the court's earlier order and Local Rule 16-281 and the
6 pretrial conference date is vacated.

7 Accordingly, it is ORDERED that:

- 8 1. The pretrial conference set for September 30, 2009 is hereby vacated; and,
9 2. Defendants shall, within 20 days from the date of this order, show cause why
10 sanctions should not be imposed for their failure to file pretrial statements.

11 Dated: September 29, 2009.

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13 EDMUND F. BRENNAN
14 UNITED STATES MAGISTRATE JUDGE
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